

## **Omnibus Diplomatic Security and Antiterrorism Act of 1986**

[Public Law 99–399]

[As Amended Through P.L. 117–263, Enacted December 23, 2022]

【Currency: This publication is a compilation of the text of Public Law 99–399. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To provide enhanced diplomatic security and combat international terrorism, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. [22 U.S.C. 4801 note] SHORT TITLE.**

This Act may be cited as the “Omnibus Diplomatic Security and Antiterrorism Act of 1986”.

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## **TITLE III—PERFORMANCE AND ACCOUNTABILITY**

### **SEC. 301. [22 U.S.C. 4831] SECURITY REVIEW COMMITTEES.**

(a) IN GENERAL.—

(1) CONVENING THE SECURITY REVIEW COMMITTEE.—In any case of a serious security incident involving loss of life, serious injury, or significant destruction of property at, or related to, a United States Government diplomatic mission abroad (referred to in this title as a “Serious Security Incident”), and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, the Secretary of State shall convene a Security Review Committee, which shall issue a report providing a full account of what occurred, consistent with section 304.

(2) COMMITTEE COMPOSITION.—The Secretary shall designate a Chairperson and may designate additional personnel of commensurate seniority to serve on the Security Review Committee, which shall include—

(A) the Director of the Office of Management Strategy and Solutions;

(B) the Assistant Secretary responsible for the region where the incident occurred;

(C) the Assistant Secretary of State for Diplomatic Security;

(D) the Assistant Secretary of State for Intelligence and Research;

(E) an Assistant Secretary-level representative from any involved United States Government department or agency; and

(F) other personnel determined to be necessary or appropriate.

(3) EXCEPTIONS TO CONVENING A SECURITY REVIEW COMMITTEE.—

(A) IN GENERAL.—The Secretary of State is not required to convene a Security Review Committee—

(i) if the Secretary determines that the incident involves only causes unrelated to security, such as when the security at issue is outside of the scope of the Secretary of State's security responsibilities under section 103;

(ii) if operational control of overseas security functions has been delegated to another agency in accordance with section 106;

(iii) if the incident is a cybersecurity incident and is covered by other review mechanisms; or

(iv) in the case of an incident described in paragraph (1) that involves any facility, installation, or personnel of the Department of Defense with respect to which the Secretary has delegated operational control of overseas security functions to the Secretary of Defense pursuant to section 106 of this Act.

(B) DEPARTMENT OF DEFENSE INVESTIGATIONS.—In the case of an incident described in subparagraph (A)(iv), the Secretary of Defense shall conduct an appropriate inquiry. The Secretary of Defense shall report the findings and recommendations of such inquiry, and the action taken with respect to such recommendations, to the Secretary of State and Congress.

(4) FACILITIES IN AFGHANISTAN, YEMEN, SYRIA, AND IRAQ.—

(A) LIMITED EXEMPTIONS FROM REQUIREMENT TO CONVENE BOARD.—The Secretary of State is not required to convene a Board in the case of an incident that—

(i) involves serious injury, loss of life, or significant destruction of property at, or related to, a United States Government mission in Afghanistan, Yemen, Syria, or Iraq; and

(ii) occurs during the period beginning on October 1, 2020, and ending on September 30, 2022.

(B) REPORTING REQUIREMENTS.—In the case of an incident described in subparagraph (A), the Secretary shall—

(i) promptly notify the Committee on International Relations of the House of Representatives and the

Committee on Foreign Relations of the Senate of the incident;

(ii) conduct an inquiry of the incident; and

(iii) upon completion of the inquiry required by clause (ii), submit to each such Committee a report on the findings and recommendations related to such inquiry and the actions taken with respect to such recommendations.

(5) RULEMAKING.—The Secretary of State shall promulgate regulations defining the membership and operating procedures for the Security Review Committee and provide such guidance to the Chair and ranking members of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(b) DEADLINES FOR CONVENING SECURITY REVIEW COMMITTEES.—

(1) IN GENERAL.—The Secretary of State shall convene a Security Review Committee not later than 60 days after the occurrence of an incident described in subsection (a)(1), or 60 days after the Department first becomes aware of such an incident, whichever is earlier, except that the 60-day period for convening a Security Review Committee may be extended for one additional 60-day period if the Secretary determines that the additional period is necessary.

(2) DELAY IN CASES INVOLVING INTELLIGENCE ACTIVITIES.—With respect to breaches of security involving intelligence activities, the Secretary of State may delay the establishment of a Board if, after consultation with the chairman of the Select Committee on Intelligence of the Senate and the chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that the establishment of a Board would compromise intelligence sources or methods. The Secretary shall promptly advise the chairmen of such committees of each determination pursuant to this paragraph to delay the establishment of a Board.

(c) CONGRESSIONAL NOTIFICATION.—Whenever the Secretary of State convenes a Security Review Committee, the Secretary shall promptly inform the chair and ranking member of—

- (1) the Committee on Foreign Relations of the Senate;
- (2) the Select Committee on Intelligence of the Senate;
- (3) the Committee on Appropriations of the Senate;
- (4) the Committee on Foreign Affairs of the House of Representatives;
- (5) the Permanent Select Committee on Intelligence of the House of Representatives; and
- (6) the Committee on Appropriations of the House of Representatives.

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## TITLE IV—DIPLOMATIC SECURITY PROGRAM

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### SEC. 402. [22 U.S.C. 4852] DIPLOMATIC CONSTRUCTION PROGRAM.

(a) PREFERENCE FOR UNITED STATES CONTRACTORS.—Notwithstanding section 11 of the Foreign Service Buildings Act, 1926, and where adequate competition exists, only United States persons and qualified United States joint venture persons may—

(1) bid on a diplomatic construction or design project which has an estimated total project value exceeding \$10,000,000; and

(2) bid on a diplomatic construction or design project which involves technical security, unless the project involves low-level technology, as determined by the Secretary of State.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to any diplomatic construction or design project in a foreign country whose statutes prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions he has taken to urge such foreign country to permit the use of United States contractors on such projects, and what actions he shall take with respect to that country as authorized by title I1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the “Foreign Missions Act”).

(c) DEFINITIONS.—For the purposes of this section—

(1) the term “adequate competition” means with respect to a construction or design project, the presence of two or more qualified bidders submitting responsive bids for that project;

(2) the term “United States person” means a person which—

(A) is incorporated or legally organized under the laws of the United States, including State, the District of Columbia, and local laws;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States—

(i) for more than 5 years before the issuance date of the invitation for bids or request for proposals with respect to a construction project under subsection (a)(1); and

(ii) for more than 2 years before the issuance date of the invitation for bids or request for proposals with respect to a construction or design project which involves physical or technical security under subsection (a)(2);

(D) has performed within the United States or at a United States diplomatic or consular establishment abroad administrative and technical, professional, or construction services similar in complexity, type of construction, and value to the project being bid;

(E) with respect to a construction project under subsection (a)(1), has achieved total business volume equal to or greater than the value of the project being bid cumulatively over 3 years of the 5-year period before the date specified in subparagraph (C)(i);

(F)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States,

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States, and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the foreign buildings office project site; and

(G) has the existing technical and financial resources in the United States to perform the contract; and

(3) the term “qualified United States joint venture person” means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture.

(d) AMERICAN MINORITY CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American minority contractors.

(e) AMERICAN SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American small business contractors.

(f) LIMITATION ON SUBCONTRACTING.—With respect to a diplomatic construction project, a prime contractor may not subcontract more than 50 percent of the total value of its contract for that project.

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